

General Information Letter: Innocent spouse relief may be appropriate to avoid offset of rebate payment against liability of spouse.

October 6, 2000

Please be advised that your letter dated September 1, 2000 and addressed to the Office of Daniel Hynes, Comptroller has been forwarded to the Legal Services Office of the Illinois Department of Revenue for a response. In your letter, you state the following:

I am NOT a party to xxxxxxxxxxxxxxxxxxxx (xxx-xx-xxxx) lawsuit. I file an INJURED SPOUSE FORM with my income tax. xxxxxxxxxxxx also does not own or pay the property taxes on our address. I own the home with my mother and I do not feel I should be penalized or should pay his warrant. (TI xxxxxxxx).

Please adjust your records. Feel free to contact me at the above. Thank you.

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill.Adm.Code §1200, or on the website <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

We are unable to ascertain from your letter whether or not you may qualify as an innocent spouse under the Innocent Spouse provision of the Illinois Income Tax Act ("IITA", 35 ILCS 5/502(c)(4)). Generally, and according to our regulations, you must provide the Illinois Department of Revenue with either of the following in order to be considered an innocent spouse: (1) proof that you filed for relief with the Internal Revenue Service (Form 8857), or (2) a letter addressed to the Problems Resolution Office, 101 West Jefferson Street, Suite 5-500, Springfield, IL 62702 with supporting documentation that a joint return was filed for the taxable year you are seeking relief and circumstances surrounding your "innocence".

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

Sincerely,

Heidi Scott
Staff Attorney -- Income Tax